

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAYSEN ALEXANDER PATTERSON,

Petitioner

v.

CALVIN JOHNSON, et al.,

Respondents

Case No.: 2:20-cv-01614-JAD-DJA

**Order Granting IFP Status, Provisionally
Appointing the FPD as Counsel, and
Denying Motion for Excess Pages**

[ECF Nos. 2, 3, 4]

Pro se petitioner Jaysen Alexander Patterson petitions for habeas relief from his 2015 judgment of conviction on one count of first-degree arson and three counts of burglary that resulted in four consecutive prison sentences with terms of 6–15 years.¹ Patterson moves for leave to proceed *in forma pauperis*,² for court-appointed counsel,³ and for leave to file excess pages.⁴ I find that Patterson is unable to afford counsel and that he has demonstrated that counsel is appropriate, so I provisionally appoint the Federal Public Defender to represent Patterson in this case. And because there is no page limit on habeas petitions and appointed counsel will file an amended petition anyway, I deny as moot his motion for excess pages.

Discussion

There are several reasons to grant Patterson’s request for counsel. Patterson currently is serving four, significant consecutive prison sentences.⁵ In his state post-conviction proceedings, the district court granted relief on his claim that he should have a new sentencing hearing. The

¹ ECF No. 1.

² ECF No. 2

³ ECF No. 3.

⁴ ECF No. 4.

⁵ ECF No. 1-1 at 28.

1 Nevada Court of Appeals then reversed and remanded the grant of relief. The state post-
2 conviction proceedings still appear to be open in the state district court. Patterson has presented
3 several claims of ineffective assistance of counsel that he states are not exhausted in the state
4 courts. However, the reason for the lack of exhaustion might simply be that the state post-
5 conviction proceedings still are open. Counsel can help sort out these procedural issues before
6 continuing with federal habeas corpus litigation.

7 Patterson is financially eligible for appointment of counsel.⁶ Although he has paid the
8 filing fee, he lacks the funds to afford counsel.⁷ So I grant the application to proceed *in forma*
9 *pauperis*.

10 Patterson's motion for leave to file excess pages⁸ is unnecessary because the court does
11 not impose a page limitation on a habeas corpus petition.⁹ The motion also is moot because I am
12 appointing counsel, who will file an amended petition.

13 IT THEREFORE IS ORDERED that the application to proceed *in forma pauperis* [ECF
14 No. 2] is **GRANTED**.

15 IT FURTHER IS ORDERED that the motion for appointment of counsel [ECF No. 3] is
16 **GRANTED. The Federal Public Defender is appointed provisionally as counsel.**

17 IT FURTHER IS ORDERED that the Federal Public Defender has 30 days from the date
18 of entry of this order to (1) undertake representation of Patterson or (2) indicate to the court the
19 office's inability to represent Patterson. If the Federal Public Defender is unable to represent
20 Patterson, then the court will appoint alternate counsel. The court will set a deadline for filing an

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22 ⁶ 18 U.S.C. § 3006A.

23 ⁷ ECF No. 2 at 4–14.

⁸ ECF No. 4.

⁹ LSR 3-2(b).


1 amended petition once counsel has appeared. The court does not signify any implied finding of
2 tolling during any time period established or any extension granted. Patterson always remains
3 responsible for calculating the limitation period of 28 U.S.C. § 2244(d)(1) and timely presenting
4 claims. The court makes no representation that the petition, any amendments to the petition, and
5 any claims in the petition or amendments are not subject to dismissal as untimely.¹⁰

6 IT FURTHER IS ORDERED that **the clerk of the court is directed to** ADD Aaron
7 Ford, Attorney General for the State of Nevada, as counsel for respondents; and
8 ELECTRONICALLY SERVE upon respondents a copy of the petition and this order.

9 IT FURTHER IS ORDERED that respondents' counsel must enter a notice of appearance
10 in this case by November 10, 2020, but no further response will be required from respondents
11 until further order of the court.

12 IT FURTHER IS ORDERED that the motion for leave to file excess pages **[ECF No. 4]**
13 **is DENIED as moot.**

14 Dated: October 22, 2020

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17 U.S. District Judge
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¹⁰ See *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).